

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

USCA Docket Number:
USDC Docket Number : 04-cv-10023

Michael S. Subenko

v.

Commonwealth of Massachusetts, et al

CLERK'S CERTIFICATE

I, Tony Anastas, Clerk of the United States District Court for the District of Massachusetts, do hereby certify that the annexed documents as indicated on the certified copy of the docket and contained in Volume(s) I are the original pleadings and constitute the record on appeal in the above entitled case for the Notice of Appeal filed on 12/3/04.

In testimony whereof, I hereunto set my hand and affix the seal of this Court on December 29, 2004.

Tony Anastas, Clerk of Court

By:

Jeanette Ramos, Deputy Clerk

Receipt of the documents in the above entitled
case is hereby acknowledged this date: 12-29-04.

Kinda Sawyer
Deputy Clerk, US Court of Appeals

Please complete the following information:

COURT OF APPEALS DOCKET NUMBER ASSIGNED: _____

APPEAL

**United States District Court
District of Massachusetts (Boston)
CIVIL DOCKET FOR CASE #: 1:04-cv-10023-GAO**

Subenko v. Spencer
Assigned to: Judge George A. O'Toole Jr.
Cause: 28:2254 Petition for Writ of Habeas
Corpus (State)

Date Filed: 01/05/2004
Jury Demand: None
Nature of Suit: 530 Habeas
Corpus (General)
Jurisdiction: Federal Question

Petitioner

Michael A Subenko

represented by **Michael A Subenko**
W65867
S.B.C.C.
P.O. Box 8000
L-2 Cell 40
Shirley, MA 01464
PRO SE

V.

Respondent

**Commonwealth of
Massachusetts**

TERMINATED: 01/22/2004

**Luis Spencer,
Superintendent**

represented by **Natalie S Monroe**
Attorney General's Office
One Ashburton Place
Boston, MA 02108
617-727-2200 X 2833

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**LEAD ATTORNEY
ATTORNEY TO BE NOTICED**

Date Filed	#	Docket Text
01/05/2004	①	MOTION for Leave to Proceed in forma pauperis by Michael A Subenko.(Jenness, Susan) (Entered: 01/09/2004)
01/05/2004	②	MOTION to Appoint Counsel by Michael A Subenko.(Johnson, Jay) (Entered: 01/15/2004)
01/05/2004	③	AFFIDAVIT in Support re <u>2</u> MOTION to Appoint Counsel. (Johnson, Jay) (Entered: 01/15/2004)
01/05/2004	④	DECLARATION in support of request for leave to proceed in forma pauperis by Michael A Subenko. (Johnson, Jay) (Entered: 01/15/2004)
01/05/2004	⑤	MOTION for Leave to Proceed in forma pauperis by Michael A Subenko.(Johnson, Jay) (Entered: 01/15/2004)
01/05/2004	⑥	MEMORANDUM on Plaintiffs Request's by Michael A Subenko. (Johnson, Jay) (Entered: 01/15/2004)
01/07/2004	●	If the trial Judge issues an Order of Reference of any matter in this case to a Magistrate Judge, the matter will be transmitted to Magistrate Judge Dein. (Jenness, Susan) (Entered: 02/19/2004)

01/22/2004	•8	Judge George A. O'Toole Jr.: ORDER entered denying <u>5</u> Motion for Leave to Proceed in forma pauperis, denying <u>1</u> Motion for Leave to Proceed in forma pauperis. Petitioner's motion to proceed without prepayment of fees is moot because petitioner also submitted the \$5 filing fee. (Lanier, Marjorie) (Entered: 01/28/2004)
01/22/2004	•9	Judge George A. O'Toole Jr.: ORDER entered denying <u>2</u> Motion to Appoint Counsel, without prejudice to filing such a motion after the respondent has filed a responsive pleading to the petition. (Lanier, Marjorie) (Entered: 01/28/2004)
01/22/2004	•10	Judge George A. O'Toole Jr.: ORDER entered SERVICE ORDER re 2254 Petition. Order entered pursuant to R.4 of the Rules governing Section 2254 cases for service on respondents. Answer/responsive pleading due w/in 20 days of rcpt of this order. It is FURTHER ORDERED that the Clerk shall correct the case caption to reflect that the only respondent to this action is Luis Spencer, Superintendent of the Massachusetts Correctional Institution - Norfolk.(Lanier, Marjorie) (Entered: 01/28/2004)
01/22/2004	•13	PETITION for writ of habeas corpus pursuant to 28:2254, filed by Michael A Subenko.(Jenness, Susan) (Entered: 02/19/2004)
01/23/2004	•7	Letter/request (non-motion) from Michael Subenko.requesting status of case. copy of docket sheet sent 1/23/04 (Diskes, Sheila) (Entered: 01/23/2004)
02/04/2004	•11	AFFIDAVIT of Walter Wheeler by Michael A Subenko. (Edge, Eugenia) (Entered: 02/06/2004)

02/04/2004	•12	Affidavit of Compliance and CERTIFICATE OF SERVICE by Michael A Subenko re <u>11</u> Affidavit.c/s (Edge, Eugenia) (Entered: 02/06/2004)
02/17/2004	•14	MOTION for Extension of Time to 3/31/04 to respond to petition for writ of habeas corpus by Luis Spencer.(Flaherty, Elaine) (Entered: 02/23/2004)
02/17/2004	•15	NOTICE of Appearance by Natalie S Monroe on behalf of Luis Spencer (Flaherty, Elaine) (Entered: 02/23/2004)
03/22/2004	•16	NOTICE of Change of Address and request for Attorney's General address by Michael A Subenko. Docket sheet sent to Petitioner. (Edge, Eugenia) (Entered: 03/23/2004)
03/30/2004	•	Judge George A. O'Toole Jr.: Electronic ORDER entered granting <u>14</u> Motion for Extension of Time, until 3/31/04 to respond to petition for writ of habeas corpus. cc/cl (Lyness, Paul) (Entered: 03/30/2004)
03/31/2004	•17	MOTION to Dismiss Petition for Writ of Habeas Corpus as time barred. by Luis Spencer.c/s(Edge, Eugenia) (Entered: 04/02/2004)
03/31/2004	•18	MEMORANDUM in Support re <u>17</u> MOTION to Dismiss filed by Luis Spencer.c/s (Edge, Eugenia) (Entered: 04/02/2004)
04/09/2004	•19	REPLY to Response to Motion re <u>17</u> MOTION to Dismiss filed by Michael A Subenko. (Lyness, Paul) (Entered: 04/20/2004)
08/02/2004	•20	MOTION for Hearing by Michael A Subenko. (Barrette, Mark) (Entered: 08/11/2004)

08/11/2004	•21	Proposed Document(s)Dept of Youth Services Record Part 1 submitted by Michael A Subenko received for filing. (Attachments: # <u>1</u> Part 2 of DYS Records# <u>2</u> Letter from Jennifer Petersen,Esq# <u>3</u> Letter from Thomas Foley)(Barrette, Mark) (Entered: 08/11/2004)
11/10/2004	•22	Judge George A. O'Toole Jr.: ORDER entered The respondents' motion to dismiss the petition for a writ of habeas corpus for the reason that it is time-barred under 28, USC, section 2244(d) is GRANTED. The petition is DISMISSED WITH PREJUDICE. (Copy of order mailed out to petitioner)(Lyness, Paul) (Entered: 11/12/2004)
11/12/2004	•23	Judge George A. O'Toole Jr.: ORDER entered JUDGMENT in favor of Respondent against Petitioner (Copy of judgment mailed out to petitioner)(Lyness, Paul) (Entered: 11/12/2004)
11/12/2004	•	Civil Case Terminated. (Lyness, Paul) (Entered: 11/12/2004)
12/02/2004	•	Notice of correction to docket made by Court staff. Affidavit of Beverly Subenko filed in Plymouth Superior Court added to Notice of Appeal. (Edge, Eugenia) (Entered: 12/06/2004)
12/03/2004	•24	NOTICE OF APPEAL as to <u>23</u> Judgment by Michael A Subenko. \$ 0. No payment filed. NOTICE TO COUNSEL: A Transcript Report/Order Form, which can be downloaded from the First Circuit Court of Appeals web site at http://www.ca1.uscourts.gov/clerks/transcript.htm MUST be completed and submitted to the Court of Appeals. Appeal Record due by 12/23/2004. (Edge, Eugenia) Additional attachment(s) added on

		12/6/2004 (Edge, Eugenia). (Entered: 12/06/2004)
12/09/2004	•25	MOTION (letter form) to Appoint Counsel by Michael A Subenko.(Edge, Eugenia) (Entered: 12/13/2004)
12/22/2004	•	Judge George A. O'Toole Jr.: Electronic ORDER entered denying without prejudice <u>25</u> Motion to Appoint Counsel (Copy of receipt mailed to petitioner) (Lyness, Paul) (Entered: 12/22/2004)